

Application No. 10/805,175
Amendment "D" dated May 17, 2006
Reply to Office Action mailed April 19, 2006

REMARKS

Applicant expresses appreciation to the Examiner for the recent telephone call held on May 12, 2006. Independent claims 1, 9, 23 and 24 have each been amended consistent with that discussion. Thus, by this paper, claims 1-24 are presented for reconsideration.

Independent claims 1 and 23 and their depending claims were rejected under 35 U.S.C. § 112, second paragraph, as lacking antecedent basis for "the goblet". Claims 1 and 23 have been amended to correct the lack of antecedent basis, by removing this term from them as shown in the above claim listing.

Independent claims 1, 9, 23 and 24 (and their depending claims) were rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement, in that "There is no written support in the original application for the longitudinal axis of the container being centered in the lower opening." Office Action at ¶ 5. The claims have been amended to replace the language in question with the language in the specification at page 3, lines 18-19 wherein it states "The goblet 10 also can have a longitudinal axis 26 that can be substantially centered . . . within the container wall." Thus, each of the independent claims now recite that the longitudinal axis is "substantially centered within said container wall." (Emphasis added).¹

¹ The original language in the claims defined the longitudinal axis as "substantially centered at one end within a plane defined on one end of the longitudinal axis by said open upper end of the goblet, and substantially centered at the other end of the axis within a horizontal plane defined on the other end of the axis by said lower opening." The specification states at page 3 that "The goblet 10 also can have a longitudinal axis 26 that can be substantially centered in the goblet, or within the container wall." The specification also states at page 4 lines 23 - 28 that "The goblet 10 can have an upper horizontal cross-section and a lower horizontal cross-section that are non-concentric. . . . The upper horizontal cross-section can be taken in a horizontal plane near the upper end of the goblet, while the lower horizontal cross-section can be taken in a horizontal plane near the bottom of the goblet."

As noted in the teleconference with the Examiner, if the longitudinal axis is centered within the goblet or container wall, then it also follows that the longitudinal axis is centered at the planes defined by the upper and lower openings or cross-sections of the goblet or container wall. Accordingly, as expressed in the teleconference, there is clearly written description supporting the original language of the independent claims. However, since the Examiner appeared to continue to be troubled about whether this language adequately supported the claim language, and particularly since replacing that original language with the language as presented herein does not narrow the scope of the claims in any way, applicant simply agreed to disagree over this issue and move on by replacing the

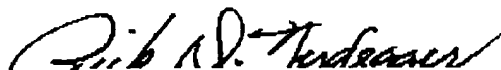
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In view of the above amendments, and there being no other rejections of record, favorable action and allowance is respectfully requested.

In the event the Examiner finds any remaining impediment to allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 17th day of May, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rick A. Nydegger", written in a cursive style.